

# Archives Sued for Release of JFK X-Rays

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A John F. Kennedy assassination researcher filed suit in federal court yesterday in an attempt to force the National Archives to disclose about 200 photographs and X-rays of the slain president that have been kept in locked files since 1966.

D. Mark Katz, the Rockville researcher, and the Public Citizen Litigation Group alleged in the suit that the National Archives has improperly withheld the material, and they maintain that restrictions on disclosure imposed by the Kennedy family are legally invalid. The suit maintains that the material should be released under the Freedom of Information Act.

Bills in Congress would release material collected by committee investigations, but the measures contain an exception for autopsy records. On Monday, a Justice Department official said in a letter to Sen. John Glenn (D-Ohio) that the department opposed several portions of the legislation. A department spokesman said yesterday, however, that the administration still supports release of the investigation records.

The National Archives obtained the autopsy photos in 1966. The Kennedy family transferred the material to the government with the proviso that it be kept private until the death of President Kennedy's immediate family.

In the suit filed yesterday, the public interest group said that the autopsy photographs and X-rays were made

by federal employees and thus were federal property and should not have been transferred to the Kennedy family.

Susan Cooper, a National Archives spokeswoman, said the government won a similar FOIA suit in 1972, when the 10th U.S. Circuit Court of Appeals ruled that a private individual could not challenge the Kennedy restrictions. However, Theresa A. Amato, a lawyer for Public Citizen, said the D.C. Circuit Court of Appeals has rejected that court's decision. The Supreme Court has not ruled on the issue.

Some of the autopsy photos sought in the suit have been published. Under the terms of the Kennedy restrictions, the archives may grant access to the material to "recognized experts in the field of pathology or related areas" with approval of the Kennedy family.

Bob Dreyfuss, a spokesman for Public Citizen, a group founded by Ralph Nader, said disclosure of the material could help resolve questions about the 1963 assassination, including whether the material itself has been tampered with.

Melody Miller, spokeswoman for Sen. Edward M. Kennedy (D-Mass.), told the Associated Press that the family considers the photos private but has allowed qualified experts and government investigators full access to the material.

"Unrestricted public release of the autopsy materials would obviously be very painful to the Kennedy family," Miller said.

## Group sues for JFK photos

WASHINGTON (AP) — The private advocacy group Public Citizen sued the National Archives on Wednesday for the release of more than 250 autopsy photos and X-rays of assassinated President John F. Kennedy. The group told reporters the material could help resolve lingering doubts over whether Lee Harvey Oswald acted alone in the gunshot slaying of Kennedy on Nov. 22, 1963 in Dallas.

In the suit, Public Citizen charged the government with wrongfully withholding public documents by claiming they are the private property of the Kennedy family. "The photographs and X-rays are government records," said Public Citizen attorney Theresa Amato. Neither the government nor the Kennedy family, she said, can "deny the public the right to see them under the Freedom of Information Act."

Founded in 1971 by consumer advocate Ralph Nader, Public Citizen pursues a variety of consumer, environmental, public disclosure and health-related issues.

That an "liver stone" would be irresponsible and ignorant in his exploitation and commercialization of the JFK assassination is not surprising but that the Nader people would be as <sup>and insensitive</sup> uninformed as the news accounts indicate is a surprise. I approached them years ago, late 1960s or early 1970s and they would not have

anything to do with using FOIA to bring JFK assassination records to light. Now they are handling this lawsuit for Katz, described as a researcher whose concept of research and his interest I am inclined to evaluate based on his proximity, perhaps a half-hour, and I've never heard of him and he has never been here or asked to see any of my records.

I do not know whether the reporter got the line that the provision referred to originated with the Kennedy family from the pleadings or not but the truth is that the letter agreement covering the transfer was not even written by them. It was drafted by the post-JFK DJ without contact with the ~~EXEC~~ counsel for the executors of the estate

was not even known to it. I have the drafts of the agreement and the place for that name is blank. I'm not checking but I think it was written in on the one signed.

Aside from the fact that the restrictions did not originate with the family itself but <sup>was</sup> written by the LBJ DJ, the story reflects no information in the complaint (which I ~~ask~~ ask Jim or Kevin to send me) what used to be the controlling formulation was known as "the Pittsburgh Code." I learned about this in 1956 from a pathologist's letter after he read Whitewash. That code states that the processed film belongs to the purchaser of the unexposed film.

While I do not know what other precedents there are I do know of two related lawsuits neither likely precedential but both relevant. I filed one and I was involved in the other. I was pro se in my effort to get pictures of JFK's clothing to study, and they are covered by that same letter agreement, <sup>and</sup> as I was Garrison's expert in ~~which~~ the case he filed to, among other things have access to the autopsy film. The very day he ~~won~~ he abandoned that suit on the ground that it was part of a CIA plot against him.

My case was in federal district court, before Judge Gesell so perhaps some of it might be relevant.

Perhaps I am wrong but my belief had not been <sup>influenced</sup> ~~influenced~~ by the many books alleging that the film was doctored. Harry Livingstone, author of the High Treason books, has never been able to respond to my telling him that those said to be genuine completely destroyed the Warren Report and its basic conclusions and then asking why in the world anyone, especially in government, would go to all the cost and trouble of doctoring this film, run the not inconsiderable risks, only to have the supposedly faked film destroy the reason for making the fakes?

The timing of this suit filing suggests that it was inspired, if that is the right word, by attention to Stone's mouth and movie, Livingstone's High Treason 2, or both.

The story suggests that all of them are ignorant of the available fact and of previous litigation as well as of the history of the agreement. I regard what they are up to as ~~is~~ indecent.

I had the Pittsburgh Code located and used in the Garrison suit, successfully.